DECLARATION *on* FACT-FINDING *by the* UNITED NATIONS *in the* FIELD *of the* MAINTENANCE *of* INTERNATIONAL PEACE *and* SECURITY

UNITED NATIONS

INTRODUCTION

Pursuant to General Assembly resolution 43/170 of 9 December 1988, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization began, at its 1989 session, the elaboration of an instrument on fact-finding by the United Nations in the field of the maintenance of international peace and security.

The Special Committee continued its work on the topic during its 1990 session. At its 1991 session, it completed the draft and submitted it to the General Assembly for consideration and adoption.

On 9 December 1991, the General Assembly approved, without a vote, the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security. The text of the Declaration, which is annexed to General Assembly resolution 46/59, is set out below.

RESOLUTION (A/RES/46/59)

Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security

The General Assembly,

Recalling its resolutions 43/170 of 9 December 1988, 44/37 of 4 December 1989 and 45/44 of 28 November 1990,

Taking note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,[1] which met in New York from 4 to 22 February 1991 and completed a draft Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security,

Convinced that the adoption of the draft Declaration will contribute to strengthening the role of the United Nations and enhancing its effectiveness in maintaining international peace and security,

Considering the need to ensure a wide dissemination of the text of the Declaration,

Considering the Declaration to be an important and concrete contribution of the Special Committee to the United Nations Decade of International Law,

1. Approves the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security, the text of which is annexed to the present resolution;

[1] *Official Records of the General Assembly, Forty-sixth Session, Supplement No. 33* and corrigendum (A/46/33 and Corr.1).

2. *Expresses* its appreciation to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for its important contribution to the elaboration of the text of the Declaration;

3. *Requests* the Secretary-General to inform the Governments of the States Members of the United Nations or members of specialized agencies, and the Security Council, of the adoption of the Declaration;

4. Urges that all efforts be made so that the Declaration becomes generally known and fully implemented.

67th plenary meeting
9 December 1991

ANNEX

Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security

The General Assembly,

Recalling the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2] the Manila Declaration on the Peaceful Settlement of International Disputes,[3] the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,[4] the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United

[2] Resolution 2625 (XXV), annex.

[3] Resolution 37/10, annex.

[4] Resolution 42/22, annex.

Nations in this Field,[5] and their provisions regarding fact-finding,

Emphasizing that the ability of the United Nations to maintain international peace and security depends to a large extent on its acquiring detailed knowledge about the factual circumstances of any dispute or situation, the continuance of which might threaten the maintenance of international peace and security (hereinafter, "disputes or situations"),

Recognizing that the full use and further improvement of the means for fact-finding of the United Nations could contribute to the strengthening of the role of the United Nations in the maintenance of international peace and security and promote the peaceful settlement of disputes, as well as the prevention and removal of threats to peace,

Desiring to encourage States to bear in mind the role that competent organs of the United Nations can play in ascertaining the facts in relation to disputes or situations,

Recognizing the particular usefulness of fact-finding missions that the competent United Nations organs may undertake in this respect,

Bearing in mind the experience and expertise acquired by the United Nations in the field of fact-finding missions,

Recognizing the need for States, in exercising their sovereignty, to cooperate with the relevant organs of the United Nations as regards fact-finding missions undertaken by them,

Seeking to contribute to the effectiveness of the United Nations, with a view to enhancing mutual understanding, trust and stability in the world,

[5] Resolution 43/51, annex.

Solemnly declares that:

I

1. In performing their functions in relation to the maintenance of international peace and security, the competent organs of the United Nations should endeavour to have full knowledge of all relevant facts. To this end they should consider undertaking fact-finding activities.

2. For the purpose of the present Declaration fact-finding means any activity designed to obtain detailed knowledge of the relevant facts of any dispute or situation which the competent United Nations organs need in order to exercise effectively their functions in relation to the maintenance of international peace and security.

3. Fact-finding should be comprehensive, objective, impartial and timely.

4. Unless a satisfactory knowledge of all relevant facts can be obtained through the use of the information-gathering capabilities of the Secretary-General or other existing means, the competent organ of the United Nations should consider resorting to a fact-finding mission.

5. In deciding if and when to undertake such a mission, the competent United Nations organs should bear in mind that the sending of a fact-finding mission can signal the concern of the Organization and should contribute to building confidence and defusing the dispute or situation while avoiding any aggravation of it.

6. The sending of a United Nations fact-finding mission to the territory of any State requires the prior consent of that State, subject to the relevant provisions of the Charter of the United Nations.

II

7. Fact-finding missions may be undertaken by the Security Council, the General Assembly and the Secretary-General, in the context of their respective responsibilities for the maintenance of international peace and security in accordance with the Charter.

8. The Security Council should consider the possibility of undertaking fact-finding to discharge effectively its primary responsibility for the maintenance of international peace and security in accordance with the Charter.

9. The Security Council should, wherever appropriate, consider the possibility of providing in its resolutions for recourse to fact-finding.

10. The General Assembly should consider the possibility of undertaking fact-finding for exercising effectively its responsibilities under the Charter for the maintenance of international peace and security.

11. The General Assembly should, wherever appropriate, consider the possibility of providing for recourse to fact-finding in its resolutions relevant to the maintenance of international peace and security.

12. The Secretary-General should pay special attention to using the United Nations fact-finding capabilities at an early stage

in order to contribute to the prevention of disputes and situations.

13. The Secretary-General, on his own initiative or at the request of the States concerned, should consider undertaking a fact-finding mission when a dispute or a situation exists.

14. The Secretary-General should prepare and update lists of experts in various fields who would be available for fact-finding missions. He should also maintain and develop, within existing resources, capabilities for mounting emergency fact-finding missions.

15. The Security Council and the General Assembly should, in deciding to whom to entrust the conduct of a fact-finding mission, give preference to the Secretary-General, who may, inter alia, designate a special representative or a group of experts reporting to him. Resort to an ad hoc subsidiary body of the Security Council or the General Assembly may also be considered.

16. In considering the possibility of undertaking a fact-finding mission, the competent United Nations organ should bear in mind other relevant fact-finding efforts, including those undertaken by the States concerned and in the framework of regional arrangements or agencies.

17. The decision by the competent United Nations organ to undertake fact-finding should always contain a clear mandate for the fact-finding mission and precise requirements to be met by its report. The report should be limited to a presentation of findings of a factual nature.

18. Any request by a State to a competent organ of the United Nations for the sending of a United Nations fact-finding mis-

sion to its territory should be considered without undue delay.

III

19. Any request by a competent organ of the United Nations for the consent of a State to receive a fact-finding mission within its territory should be given timely consideration by that State. That State should inform the organ of its decision without delay.

20. In the event a State decides not to admit a United Nations fact-finding mission to its territory, it should, if it deems it appropriate, indicate the reasons for its decision. It should also keep the possibility of admitting the fact-finding mission under review.

21. States should endeavour to follow a policy of admitting United Nations fact-finding missions to their territory.

22. States should cooperate with United Nations fact-finding missions and give them, within the limits of their capabilities, the full and prompt assistance necessary for the exercise of their functions and the fulfilment of their mandate.

23. Fact-finding missions should be accorded all immunities and facilities needed for discharging their mandate, in particular full confidentiality in their work and access to all relevant places and persons, it being understood that no harmful consequences will result to these persons. Fact-finding missions have an obligation to respect the laws and regulations of the State in which they exercise their functions; such laws and regulations should not however be applied in such a way as to hinder missions in the proper discharge of their functions.

24. The members of fact-finding missions, as a minimum, enjoy the privileges and immunities accorded to experts on missions by the Convention on the Privileges and Immunities of the United Nations. Without prejudice to their privileges and immunities, members of fact-finding missions have an obligation to respect the laws and regulations of the State in the territory in which they exercise their functions.

25. Fact-finding missions have an obligation to act in strict conformity with their mandate and perform their task in an impartial way. Their members have an obligation not to seek or receive instructions from any Government or from any authority other than the competent United Nations organ. They should keep the information acquired in discharging their mandate confidential even after the mission has fulfilled its task.

26. The States directly concerned should be given an opportunity, at all stages of the fact-finding process, to express their views in respect of the facts the fact-finding mission has been entrusted to obtain. When the results of fact-finding are to be made public, the views expressed by the States directly concerned should, if they so wish, also be made public.

27. Whenever fact-finding includes hearings, appropriate rules of procedure should ensure their fairness.

IV

28. The Secretary-General should monitor the state of international peace and security regularly and systematically in order to provide early warning of disputes or situations which might threaten international peace and security. The Secretary-General may bring relevant information to the attention of the Security

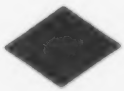
Council and, where appropriate, of the General Assembly.

29. To this end, the Secretary-General should make full use of the information-gathering capabilities of the Secretariat and keep under review the improvement of these capabilities.

V

30. The sending of a United Nations fact-finding mission is without prejudice to the use by the States concerned of inquiry or any similar procedure or of any means of peaceful settlement of disputes agreed by them.

31. Nothing in the present Declaration is to be construed as prejudicing in any manner the provisions of the Charter.



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